

### C. Remarks

The claims are 21-37, with claims 21 and 25 being independent. Claims 22, 23 and 25-37 have been withdrawn from consideration as being directed to non-elected subject matter. The specification has been amended to correct typographical errors. Both the errors and the corrections are clear. No new matter has been added. Reconsideration of the claims is expressly requested.

Initially, Applicants would like to affirm the provisional election of Group I, claims 21 and 24. However, Applicants respectfully submit that the restriction requirement on which this election is based should be withdrawn. Specifically, the Examiner restricted the present claims on the ground that they lack unity of invention in view of claim 21 being allegedly anticipated by EP 1 340 776 (Yano). However, since, as discussed below, Yano is not prior art, the premise on which the restriction requirement is based cannot be maintained.

Claims 21 and 24 stand rejected under 35 U.S.C. § 102(a) as being allegedly anticipated by Yano. Claims 21 and 24 also stand rejected under 35 U.S.C. § 102(e) as being allegedly anticipated by U.S. Patent No. 6,911,520 B1 (the ‘520 patent); 6,908,721 B2 (the ‘721 patent); 6,649,380 (the ‘380 patent); or 6,645,743 B1 (the ‘743 patent).

Applicants respectfully submit that neither of the above documents is prior art to the present application. Specifically, Yano was published and the ‘520 patent, the ‘721 patent, the ‘380 patent and the ‘743 patent were all filed in 2003, while Japanese Application No. 2002-309786, from which the subject application claims priority under 35

U.S.C. § 119, was filed on October 24, 2002. The verified translation of the granted claims in this priority application, which was filed with the request for participation in the Patent Prosecution Highway Program (PPH), clearly demonstrates that the present claims are fully supported by the priority application. In fact, the present claims had to sufficiently correspond to the claims found patentable in Japan in order for the PPH request to be granted, which it was on October 30, 2007. Accordingly, withdrawal of the anticipation rejections is respectfully requested.<sup>1</sup>

Claims 21 and 24 also stand rejected under the judicially-created doctrine of obviousness type double patenting claim 16 of the ‘520 patent, claim 8 of in the ‘721 patent, claim 2 of the ‘380 patent and claim 2 of the ‘743 patent.

Applicants believe that the filing of a terminal disclaimer at this juncture is premature. Applicants, for example, would need to pay a fee for the recordation of each terminal disclaimer, which is non-refundable, should the withdrawal of the disclaimer need to be requested due to additional future amendments or should this application be abandoned in favor of a continuation. In that regard, Applicants will also have additional expenses associated with, for example, re-recording the terminal disclaimers in the continuation or requesting withdrawal of the terminal disclaimers. Furthermore, since the majority of claims in this case are yet to be examined due to the pending withdrawal of the restriction requirement, the terminal disclaimer is believed to be premature.

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<sup>1</sup> The Examiner is requested to advise Applicants if she finds the sworn translation of the claims in Japanese Application No. 2002-309786 to be insufficient for the purpose of antedating the cited documents. If so,

Applicants' undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our below listed address.

Respectfully submitted,

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Applicants will provide the Examiner with a complete translation of this priority document.